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October 14, 2005

\*ALSO ADMITTED IN TX  
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SC PUBLIC SERVICE  
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AREA CODE 803  
TELEPHONE 252-3300  
TELECOMMER 252-8062

**VIA HAND DELIVERY**

The Honorable Charles L.A. Terreni  
Chief Clerk/Administrator/Hearing Officer  
**Public Service Commission of South Carolina**  
101 Executive Center Drive  
Columbia, South Carolina 29210

RE: Application of Carolina Water Service, Inc. for adjustment of rates  
and charges for the provision of water and sewer service and  
modification of rate schedules; Docket No. 2004-357-WS

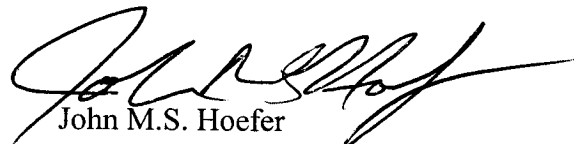
Dear Mr. Terreni:

Enclosed for filing please find the original and five (5) copies of Carolina Water Service, Inc.'s Motion for Clarification or, in the Alternative, Issuance of an Order Approving Bond in the above-referenced matter.

I would appreciate your acknowledging receipt of this document by date-stamping the extra copy that is enclosed and returning it to me via our courier delivering same. By copy of this letter, I am serving all parties of record and enclose my certificate of service to that effect. If you have any questions, or need additional information, please do not hesitate to contact us.

Sincerely,

**WILLOUGHBY & HOEFER, P.A.**

  
John M.S. Hoefer

JMSH/twb  
Enclosures

cc: C. Lessie Hammonds, Esquire  
Florence P. Belser, Esquire  
Julie F. McIntyre, Esquire  
Charles Cook, Esquire  
(All Via US Mail)

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2004-357-W/S**

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IN RE: )  
 )  
Application of Carolina Water Service, )  
Inc. for adjustment of rates and charges )  
and modification of certain terms and )  
conditions for the provision of water and )  
sewer service. )  
\_\_\_\_\_ )

**MOTION FOR CLARIFICATION OR,  
IN THE ALTERNATIVE, ISSUANCE  
OF AN ORDER APPROVING BOND**

Applicant, Carolina Water Service, Inc., (“Applicant” or “CWS”), pursuant to S.C. Code Ann. Regs. R. 103-840 (1976), hereby moves for clarification of the Commission Directive of August 10, 2005 or, in the alternative, issuance of an order approving the bond proposed by CWS, both in the above-captioned matter. In support thereof, CWS would respectfully show as follows:

1. In accordance with 26 S.C. Code Ann. Regs. R.103-881.C, the Commission timely acted to deny the petition for rehearing or reconsideration heretofore filed by the CWS in the above-referenced docket. At the same time, the Commission also acted to approve the form of bond proposed by CWS (in the alternative to its petition for rehearing or reconsideration) pursuant to S.C. Code Ann. § 58-5-240(D). See Commission Directive, Agenda Item 18, August 10, 2005 (“Directive”), a copy of which is attached hereto and incorporated herein by reference as Exhibit A.

2. In the portion of the Directive denying CWS’s petition for rehearing and reconsideration, it provides that “an appropriate Order [would] follow.” *Id.* However, in the

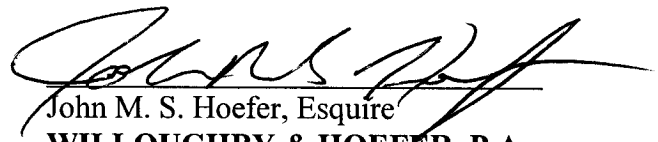
portion of the Directive pertaining to CWS's request for approval of a bond under S. C. Code Ann. § 58-5-240(D), no reference is made to issuance of any further order by the Commission.

3. CWS therefore respectfully moves that the Commission clarify the Directive and advise CWS whether it must await issuance of an order with respect to the Commission's August 10, 2005 action on the bond proposed by CWS before CWS may implement rates under bond or whether the Directive permits CWS to proceed with implementing rates under bond.

4. Alternatively, if the Commission determines that CWS must await issuance of an order with respect to implementation of rates under bond, CWS respectfully requests that the Commission issue the proposed order attached hereto and incorporated herein by reference as Exhibit B ("Proposed Order") such that CWS will be able to immediately proceed with implementing rates under bond as contemplated by § 58-5-240(D).

5. The undersigned counsel for CWS has consulted counsel for the other parties of record, all of whom have stated that they do not oppose the relief sought hereby.

WHEREFORE, having fully set forth its motion, Applicant requests that the Commission (1) issue its order clarifying that the Directive permits CWS to implement rates under the approved form of bond, (2) alternatively, issue the Proposed Order, and (3) grant CWS such other and further relief as is just and proper.



John M. S. Hoefer, Esquire

**WILLOUGHBY & HOEFER, P.A.**

Post Office Box 8416

Columbia, South Carolina 29202-8416

803-252-3300

Attorneys for Applicant

Columbia, South Carolina  
This 14<sup>th</sup> day of October, 2005

REQUIRES MONITORING  
OR STAFF ACTION \_\_\_\_\_

**COMMISSION DIRECTIVE**

ADMINISTRATIVE MATTERS ☐

DATE August 10, 2005

MOTOR CARRIER MATTERS ☐

DOCKET NO. 2004-357-WS - -

UTILITIES MATTERS ☒

**SUBJECT:**

DOCKET NO. 2004-357-WS-- Carolina Water Service, Incorporated – Application for Adjustment of Rates and Charges and Modification of Certain Terms and Conditions for the Provision of Water and Sewer Service. Discuss with the Commission Petition for Rehearing or Reconsideration and, Alternatively, Request for Approval of Bond Filed by John M. S. Hoefer, Esquire, on Behalf of the Applicant.

**COMMISSION ACTION:**

Move that this Commission Deny the Request for Rehearing or Reconsideration, with an appropriate Order to follow. Further, move that this Commission grant the Company's Request of a bond Pursuant to S.C. Code Section 58-5-240(D) in the amount of \$326,808.00 and in the form presented by the Company in Exhibit 4 of its Petition. Finally, I move that the question regarding refund methodology be held in abeyance at this time.

PRESIDING Mitchell

Session: Regular

MOTION YES NO OTHER

Time of Session 3:00 p.m.

CLYBURN ☐ ☒ ☐

FLEMING ☐ ☒ ☐

HAMILTON ☐ ☒ ☐

HOWARD ☐ ☒ ☐

MITCHELL ☐ ☒ ☐

MOSELEY ☐ ☒ ☐

WRIGHT ☒ ☐ ☐

APPROVED \_\_\_\_\_

APPROVED STC 30 DAYS \_\_\_\_\_

ACCEPTED FOR FILING \_\_\_\_\_

DENIED \_\_\_\_\_

AMENDED \_\_\_\_\_

TRANSFERRED \_\_\_\_\_

SUSPENDED \_\_\_\_\_

CANCELED \_\_\_\_\_

SET FOR HEARING \_\_\_\_\_

ADVISED \_\_\_\_\_

CARRIED OVER \_\_\_\_\_

RECORDED BY SCHMIEDING

**BEFORE**

**THE PUBLIC SERVICE COMMISSION OF**

**SOUTH CAROLINA**

**DOCKET NO. 2004-357-WS - ORDER NO. 2005-\_\_**

**\_\_\_\_\_, 2005**

IN RE:

Application of Carolina Water Service, Inc. )  
 for adjustment of rates and charges for )  
 and modification of certain terms and )  
 conditions for the provision of Water and )  
 Sewer Service. )  
 \_\_\_\_\_ )

**PROPOSED**

**ORDER APPROVING BOND**

**PURSUANT TO**

**S.C. CODE ANN. SECTION 58-5-240(D)**

This matter comes before the Commission on the motion of Carolina Water Service, Inc. ("CWS") that the Commission issue an order approving a bond under S.C. Code Ann. Section 58-5-240(D) (Supp. 2001). The other parties of record in the case have not opposed the motion. For the reasons set forth below, a bond for CWS in the amount of \$326,808.00 is approved.

On December 17, 2004, CWS filed with the Commission an Application seeking approval of a new schedule of rates and charges for water and sewer service that CWS provides to its customers within its authorized service areas in South Carolina. Following a hearing on the Application, the Commission issued its Order No. 2005-328, dated June 22, 2005, which granted CWS a partial increase in the rates and charges sought by the Application. Thereafter, CWS timely filed a Petition for Rehearing or Reconsideration of Commission Order No. 2002-214. Also by its Petition for Rehearing or Reconsideration, CWS sought, in the event that its Petition was denied, establishment of a bond pursuant to S.C. Code Ann. Section 58-5-240(D) (Supp.

2004) so that CWS could place additional requested rates into effect under bond during the appeal of the case.

The Commission, in accordance with 26 S.C. Code. Ann. Regs. R.103-881.C (Supp. 2004), acted to deny CWS's Petition for Rehearing or Reconsideration on August 10, 2005. At the same time the Commission acted to approve CWS's proposed bond form, but to withhold any determination with respect to the manner in which a refund would be made until a later date.

CWS now moves the Commission to proceed with the issuance of an order approving the bond form so that CWS may institute rates into effect under bond.

S.C. Code Ann. Section 58-5-240(D) (Supp. 2004) provides in pertinent part

If the Commission rules and issues its order within the time aforesaid, and the utility shall appeal from the order, by filing with the Commission a petition for rehearing, the utility may put the rates requested in its schedule into effect under bond only during the appeal and until final disposition of the case. Such bond must be in a reasonable amount approved by the Commission, with sureties approved by the Commission, conditioned upon the refund, in a manner to be prescribed by order of the Commission, to the persons, corporations, or municipalities, respectively, entitled to the amount of the excess, if the rate or rates put into effect are finally determined to be excessive; or there may be substituted for the bond other arrangements satisfactory to the Commission for the protection of parties interested. During any period in which a utility shall charge increased rates under bond, it shall provide records or other evidence of payments made by its subscribers or patrons under the rate or rates which the utility has put into operation in excess of the rate or rates in effect immediately prior to the filing of the schedule....

Thus, pursuant to S.C. Code Ann. Section 58-5-240(D)(Supp. 2004), a utility which appeals from an order of the Commission in a rate case is entitled to place the requested rates into effect under bond of a reasonable amount with Commission approved sureties. However, any excess of the rates placed into effect under bond are subject to refund if the rates placed into

effect under bond are determined on the appeal to be excessive. CWS has proposed a bond in the amount of \$326,808.00. CWS avers that this figure represents **twice** the amount of the difference between the sewer rates approved in Order No. 2005-328 and the sewer rates CWS asserts should have been approved by the Commission. CWS further avers that the doubling the amount of this difference appropriately allows for a two year time frame within which further proceedings pertaining to matters raised in the petition for reconsideration may be completed. I agree and find that the amount of bond proposed by CWS is a reasonable amount for the bond permitted under § 58-5-240(D).

Therefore, upon consideration of the request of CWS for approval of a bond under § 58-5-240(D), the Commission makes the following findings of fact and conclusions of law:

1. S.C. Code Ann. Section 58-5-240(D) (Supp. 2004) allows a utility which appeals from an order of the Commission in a rate case to place the requested rates into effect under bond of a reasonable amount approved by the Commission.

2. The bond amount of \$326,808.00 proposed by CWS is a reasonable amount for the bond, as this amount will allow CWS to place into effect the rates approved by Order No. 2005-328 and the additional amount sought in CWS's Petition for Rehearing or Reconsideration over a two year period.

3. The proposed bond form attached to CWS's Petition for Rehearing or Reconsideration is reasonable and sufficient for use by CWS. The proposed bond form provides for refunds of amounts collected in excess of the amounts finally approved on appeal as required by S.C. Code Ann. Section 58-5-240(D) (Supp. 2004).

4. The Commission will determine the means by which any refund to customers should be made at a later date.

IT IS THEREFORE ORDERED THAT:

1. In the matter of CWS's rate case as contained in Commission Docket No. 2004-357-WS, CWS is permitted to place rates into effect under bond as allowed by S.C. Code Ann. Section 58-5-240(D) (Supp. 2004), and a reasonable amount of bond for rates placed into effect under bond in the instant matter is \$326,808.00.

2. The proposed bond form submitted by CWS is an appropriate bond form for CWS to use in the instant matter.

3. CWS shall maintain records or other evidence of payments made by its customers under the rates in effect under bond as required by S.C. Code Ann. Section 58-5-240(D) (Supp. 2004). The Commission shall determine the means by which any refund shall be made at a later date.

4. This Order shall remain in full force and effect until further Order of the undersigned or the Commission.

\_\_\_\_\_  
Chairman

ATTEST

\_\_\_\_\_  
Vice Chairman



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BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 2004-357-W/S

IN RE:

Application of Carolina Water Service,  
Inc. for adjustment of rates and charges  
and modification of certain terms and  
conditions for the provision of water and  
sewer service.

CERTIFICATE OF SERVICE

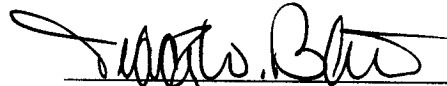
This is to certify that I have caused to be served this day one (1) copy of **Motion for Clarification or, in the Alternative, Issuance of an Order Approving Bond** by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

C. Lessie Hammonds, Esquire  
**Office of Regulatory Staff**  
Post Office Box 11263  
Columbia, South Carolina 29211

Florence P. Belser, Esquire  
**Office of Regulatory Staff**  
Post Office Box 11263  
Columbia, South Carolina 29211

Julie F. McIntyre, Esquire  
**DHEC**  
2600 Bull Street  
Columbia, South Carolina 29201

Charles Cook, Esquire  
**Elliott & Elliott, PA**  
721 Olive Street  
Columbia, South Carolina 29205

  
\_\_\_\_\_  
Tracy W. Barnes

Columbia, South Carolina  
This 14<sup>th</sup> day of October, 2005.